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Washington, D.C. 20231

MAR 16 2000

Paper No. 8

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In re Application of )  
David Y. Kao et al. )  
Application No. 08/720,693 )  
Filed: October 2, 1996 )  
For: OXIDATION OF ION IMPLANTED )  
SEMICONDUCTORS )

DECISION *SUA SPONTE*  
WITHDRAWING HOLDING  
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

An Office action was mailed on February 13, 1998, setting a three-month time period for filing a response. In the apparent absence of a response, the application was held abandoned and a Notice of Abandonment was mailed on January 13, 2000.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that, after the mailing of the Notice of Abandonment, a "Request For Response Period to be Reset Under M.P.E.P. 710.06" (Request) bearing a PTO receipt date of March 11, 1998, and Amendment bearing a PTO receipt date of June 22, 1998, were associated with the application file.

Applicant stated in the Request that the Office action mailed February 13, 1998 did not contain page 5 and, subsequent to contacting the examiner on March 10, 1998, a copy of page 5 of the Office action was facsimile transmitted to applicant's counsel. Further, it is asserted that Japanese reference 63-300526 was applied against several claims but was not made of record nor a copy provided to applicant.

No decision on the Request has been issued.

On June 22, 1998, an amendment was submitted in response to the Office action mailed February 13, 1998. The amendment was not matched with the file and the application was held abandoned.

Pursuant to M.P.E.P. § 710.06

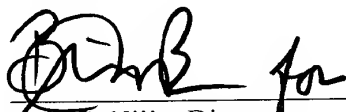
Where the citation of a reference is incorrect or an Office action contains some other defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for response to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for response set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for response, if requested to do so by the applicant, to substantially equal the time remaining in the response period.

It is clear from the record that the Office action mailed February 13, 1998 contains a defect within the meaning of this section of the M.P.E.P., that the defect was promptly brought to the attention of the Office, and that the Request for resetting the time period for response was submitted within one month of the date of the Office action. The Request meets the conditions set forth in M.P.E.P. § 710.06 and must be granted.

The request for resetting the period for response to the Office action mailed February 13, 1998 is hereby granted. The period for response is reset to expire 3 (three) months from March 10, 1998, the date page 5 of the Office action was transmitted to applicant, with extensions of this time period governed by 37 C.F.R. § 1.136(a). A response was due on or before June 10, 1998.

The Response/Amendment filed June 22, 1998 bearing a Certificate of Mailing under 37 C.F.R. § 1.8 dated June 19, 1998 is within the fourth month of the time period for response. An extension of time of one month and a fee of \$110.00 is required to make the Response timely filed. Based on the authorization to charge applicant's deposit account for any fee required, the fee of \$110.00 is being charged to deposit Account No. 23-3178 for an extension of time of one month.

The application file is being forwarded to the technical support staff for charging the \$110.00 fee as indicated above and for entry of the Response/Amendment of June 22, 1998. From there, the application file will be returned to the examiner for further examination.



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